

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 2754 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

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Approved for Reporting	Yes	No
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M/S VAIBHAV CORP. PVT. LTD. COMPANY

Versus

STATE OF GUJARAT & ORS.

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Appearance:

A R KADRI(7330) for the Petitioner(s) No. 1

VASIMRAJA A KURESHI(8609) for the Petitioner(s) No. 1

MR ANGESH A PANCHAL, ASST. GOVERNMENT PLEADER for the
Respondent(s) No. 1,2,3,4

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**CORAM: HONOURABLE MR. JUSTICE HEMANT M.
PRACHCHHAK**

Date : 17/03/2026

JUDGMENT

1. Rule returnable forthwith. Mr. Angesh Panchal, learned Assistant Government Pleader waives service of notice of Rule for and on behalf of the respondent-State Authorities.

2. By way of present petition under Article 226 of the Constitution of India read with the provisions of the Gujarat Stamp Act, 1958 (hereinafter be referred to as "*the Act*"), petitioner has prayed for the following reliefs :

*“(A) **YOUR LORDSHIPS** be pleased to issue an appropriate writ, order or direction, quashing and setting aside the impugned order dated 03.11.2023 passed by respondent No.3 at Annexure ‘A’, as well as impugned order*

dated 03.11.2023 passed by respondent no.1 in Stamp Appeal No. 165/23 at Annexure ‘’, as being illegal, arbitrary, without application of mind, in the interest of justice;

*(B) **YOUR LORDSHIPS** be pleased to stay the impugned order dated 03.11.2023 passed by respondent No.3 at Annexure ‘A’, pending admission and final hearing of present petition, in the interest of justice;*

*(C) **YOUR LORDSHIPS** be pleased to grant such other and further reliefs as deemed fit in the interest of justice.”*

3. Brief facts giving rise to the present petition are that, the issue herein pertains to land bearing Survey No.77 & 78 of Village Akota, which has been given Final Plot No.76 after implementation of Town Planning Scheme No.1, the said parcel of land came to be put under reservation for the purpose of development of 'neighbourhood', wherein Municipal Corporation has carved out several plots, wherein the present land in question has been given plot No.1 and 2 admeasuring 875 square meters. That, the said plot came to be allotted to Hemaben Sureshbhai Shah, who has acquire leasehold rights of the said two plots for the period of 99 years, by way of registered lease deed no.6949 registered on 10.10.2001, and since then Hemaben Sureshbhai Shah has become the lease holder of the said two plots. That thereafter, since Hemaben Sureshbhai Shah was not having enough expertise in construction line, Hemaben Sureshbhai Shah entered into development agreement with present petitioner and to that effect parties therein entered into one development agreement dated 13.03.2010, whereby petitioner were permitted to develop residential property, however, ownership of leasehold right remained with Hemaben Sureshbhai Shah. That thereafter, petitioner herein constructed residential appartment known by "SUNSTONE", and once the project was completed, the owner sold the Flat No.301 situated on 3rd Floor of A-Tower to Rantidev Aniruddha Dave and Kalpana Rantidev Dave, by way of

registered sale deed no.11898 dated 27.09.2012, wherein the present petitioner stood and signed as confirming party. That thereafter, the said transaction of 2010 with respect to development agreement in favour of petitioner was subjected to scrutiny, wherein the authority found short levying of stamp duty, and thereby show-cause notice came to be issued to petitioner, whereby petitioner appeared before the concern respondent no.3 authority, and as per the order dated 18.02.2015, the petitioner herein paid entire stamp duty amounting to 1,39,461/-, as provided under Section 5(z) of the Act. That thereafter, again the said respondent no.3 issued notice to petitioner, to pay another deficit stamp duty worth Rs. 17,47,156/- with respect to transaction of 2012 carried out between Hemaben Sureshbhai Shah and Rantidev Aniruddha Dave and Kalpana Rantidev Dave, having total consideration agreed worth Rs. 40,80,000/-, wherein party has already paid Rs. 2,00,000/- stamp duty as per prevailing jantri rate at that point in time. Moreover, with respect to development agreement, the petitioner herein in the year 2015 itself, cleared all the payment of stamp duty for having rights flowing in out of development agreement in his favour. That, since the petitioner did not appear before the concern authority, the said authority passed an impugned order on 03.11.2023 in Stamp/V-1/Vashi/9229/2023 ex-parte, ordering petitioner to pay the deficit stamp duty worth total Rs. 17,47,156/- which also includes Rs. 1,75,000/- penalty.

4. Being aggrieved and dissatisfied with the impugned order dated 03.11.2023 passed by the respondent No.3 in Stamp/V-1/Vashi/9229/2023, petitioner has preferred this petition.

5. Heard Mr. A.R. Kadri, learned counsel appearing for the petitioner and Mr. Angesh Panchal, learned Assistant Government

Pleader appearing for the respondent-State authorities.

6. Learned counsel Mr. Kadri has pointed out to this Court that the disputed amount of Rs. 17,47,156/-, as mentioned in the order dated 03.11.2023 towards deficit stamp duty is already paid by the petitioner way back in the year 2015, however, the impugned order is passed on 03.11.2023 and therefore, the same is required to be quashed and set aside and the present petition is required to be allowed.

7. Learned AGP Mr. Panchal, appearing on behalf of the respondent State Authorities has verified the said aspect from the concerned officer and upon instructions from the concerned officer, learned AGP Mr. Panchal states that the petitioner has already paid the amount of deficit stamp duty in the year 2015, as asked by the respondent authorities and therefore, appropriate orders may be passed.

8. I have heard the learned counsel appearing for the respective parties. It appears from the record that the notice issued by the respondent No.3 - Deputy Collector, Stamp Duty Valuation Office was challenged by the petitioner before the respondent No.2 - Chief Controlling Revenue Authority, Gandhinagar by way of filing an appeal being Stamp Appeal No. 165 of 2023, which came to be disposed off by the concerned authority. Infact, the petitioner had not stated the fact before the respondent No.2 that they have already paid the amount towards deficit stamp duty in the year 2015, he could have pointed out to the appellate authority that they have already paid the deficit stamp duty, however, without considering this fact, the respondent authority has passed the impugned order and therefore,

the same is required to be quashed and set aside and the present petition is required to be allowed.

9. In the result, the present petition is allowed. The impugned order dated 03.11.2023 passed by the respondent No.3 in Stamp/V-1/Vashi/9229/2023 is hereby quashed and set aside. Rule is made absolute.

(HEMANT M. PRACHCHHAK,J)

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